

Memorandum

To: Chairman and Commissioners

Date: October 16, 2003

From: Diane C. Eidam

File No: Reference #4.6

ACTION

Ref: **ANNUAL \$4.25 MILLION ALLOCATION SET-ASIDE FOR THE PUBLIC UTILITY COMMISSION RAILROAD GRADE CROSSING PROTECTION MAINTENANCE PROGRAM FOR FY 2004-05 RESOLUTION G-03-**

Issue:

Should the Commission support the Public Utilities Commission's (PUC) recommendation (Attachment A) to increase the \$1 million set-aside in the upcoming FY 2004-05 State Budget to a \$4.25 million set-aside for its Railroad Grade Crossing Maintenance Program, as permitted by Public Utilities Code Section 1231.1?

Recommendation:

If the Commission considers the request warranted, then staff recommends that \$4.25 million be delineated in the proposed FY 2004-054 Budget for the Railroad Grade Crossing Maintenance Program by adopting the attached resolution (Attachment B). This recommendation is justified because:

- as a matter of safety, it is important to maintain grade crossing protection devices at the interface of road/rail transportation systems; and
- the PUC has provided information that the annual claim amount will be near or at the requested annual \$4.25 million set-aside. Over the last five calendar years (1998-2002), claims approved by the PUC have ranged from a low of \$4.08 million to \$4.49 million. The total claims in calendar year 2002 were about \$4.42 million of which about \$4.08 million was approved. The PUC expects the calendar year 2003 claims to be at or near the requested \$4.25 million for FY 2004-05. The PUC adopted its own resolution in which the recommended funding level of the set aside in the proposed FY 2004-05 Budget is \$4.25 million.

Background:

Safety is the primary reason for the Railroad Grade Crossing Maintenance Program. The Automatic Grade Crossing Protection Maintenance Fund was established in 1965 by the State Legislature to pay the local jurisdictions' share of the cost for maintaining automatic grade crossing protection devices installed by the railroad corporations after October 1, 1965. Initially, the \$1 million annually appropriated for maintenance of warning devices was sufficient to cover all claims filed by the railroad and street railroad corporations. In 1973, changes to the federal grade crossing protection funding program resulted in the increased installation and upgrading of automatic grade crossing protection devices. Consequently,

claims began exceeding the funds available. The maintenance fund claims that were approved for the five-year period between FY 1998-99 and FY 2001-02 have averaged \$4.33 million per year.

The local agency share for maintaining automatic grade crossings, which is paid for by the State through this grade crossing maintenance program, represents typically only 50% of the total project cost; the remaining 50% is borne by the railroad corporations. This 50-50-payment split presumes that rail and highway users equally share the crossing and should therefore equally share the cost of maintaining the crossing devices, unless prescribed otherwise by the PUC. Thus, the requested \$4.25 million in state funds would leverage up to \$4.25 million in railroad corporation funds, which together are used to offset grade crossing maintenance costs.

Over the years, the Commission has approved the PUC's request and, when warranted, increased the amount to the level requested. Last year the Commission approved a set-aside of \$4.25 million. This year the PUC is requesting that the Commission recommend a set aside of \$4.25 million for the FY 2004-05 Budget Year.

Attachments

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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Rail Safety and Crossings Branch
Rail Crossings Engineering Section

Resolution SX-61
October 16, 2003

R E S O L U T I O N

RECOMMENDATION TO THE CALIFORNIA TRANSPORTATION
COMMISSION TO SET ASIDE THE FUNDING FOR MAINTAINING
AUTOMATIC GRADE - CROSSING PROTECTION DEVICES UNDER PUBLIC
UTILITIES CODE SECTION 1231.1

Summary

This resolution recommends to the California Transportation Commission (CTC) to set aside the sum of \$4,250,000 for the 2004-2005 fiscal year. The funding is for the purpose of paying the local governments' share of the cost of maintaining automatic grade crossing warning devices.

Background

The Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 to pay railroad corporations the local government share of the cost of maintaining automatic warning devices installed or upgraded after October 1, 1965. Public Utilities Code Section 1231.1 requires the Department of Transportation (CALTRANS) to set aside a minimum of \$1,000,000 for allocation to the Public Utilities Commission (PUC).

In 1988, an amendment to Public Utilities Code Section 1231.1¹ was enacted which specifies that the PUC may recommend a sum greater than \$1,000,000 be set aside if it finds that the \$1,000,000 is not sufficient due to an increase in the number of grade -crossing warning devices or an increase in the cost of maintenance of those devices. The specific amount of the total allocation shall be determined by the CTC.

¹ AB 3065, (Polanco) September 29, 1988.

Discussion

When the automatic grade-crossing protection maintenance fund was first established in 1965, the maximum annual allocation of \$1,000,000 was sufficient to cover all claims filed by railroad and street railroad corporations. However, the increase in the number of crossing protection devices caused claims to exceed the funds available for calendar years 1977 and thereafter.

The railroads perform the required maintenance during a given calendar year, and then file a claim with the PUC for reimbursement. These claims are paid from fiscal year budget. Claims and payments for the past five years were as follows:

CY*	FY*	Total Claims Submitted by Railroads (\$)	Number of Crossings Approved	Total Claims Approved (\$)	Prorated Percentage of Payment to Railroads Subject to Fund Limit (%)	Total Paid (\$)
1998	98-99	N/A	2,950	4,259,422	99.78%	4,250,000
1999	99-00	N/A	3,104	4,465,069	95.18%	4,250,000
2000	00-01	N/A	3,087	4,489,062	94.67%	4,250,000
2001	01-02	N/A	2,975	4,348,183	97.74%	4,250,000
2002	02-03	4,422,787	2,814	4,076,295	100.00%	4,076,295

*CY-Calendar Year

*FY-Fiscal Year

This year, the staff of the Commission's Consumer Protection and Safety Division (CPSD), Rail Crossings Engineering Section (RCES) inspected most crossings that the railroads submitted for reimbursement. Based upon these inspections, the staff recommended the acceptance of \$4,076,295 of the railroads' claims and the rejection of \$346,492 of the railroads' claims. Reasons for the rejections include crossing closed, no warning devices, crossing claimed by more than one railroad, no warning devices because crossing is grade separated, duplicate claims for the same crossing, and no current rail service.

As a result, the total claims approved by staff were less than the budgeted \$4,250,000 for FY 2002-2003. Out of the \$346,492 total rejected claims, the staff rejected \$171,550 because of no current rail service by one railroad. The railroad has indicated that it plans to resume service this year. If this is the case and the accepted claims remain the same, then the total projected annual accepted claims would be \$4,247,845. Furthermore, with the increasing cost of labor and material, the railroads may request a revision to the average maintenance cost per crossing.

The maintenance fund claims for calendar year 2003 are expected to be at or near the budgeted \$4,250,000 for FY 2003-2004. Therefore, an allocation of \$4,250,000 will be needed for the 2004-2005 fiscal year.

Finding

For the 2004-2005 fiscal year, the sum of \$4,250,000 will be needed to pay the local governments' share of the costs of maintaining automatic grade-crossing warning devices.

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

THEREFORE, IT IS ORDERED that:

In accordance with Public Utilities Code Section 1231.1, the Public Utilities Commission recommends to the California Transportation Commission that a sum of \$4,250,000 be allocated for the 2004-2005 fiscal year for the purpose of paying to railroad or street railroad corporations the share of the costs to cities and counties of maintaining automatic grade-crossing devices.

I hereby certify that this Resolution be adopted by the Public Utilities Commission at its regular meeting on October 16, 2003. The following Commissioners approved it:

WILLIAM AHERN
Executive Director

CALIFORNIA TRANSPORTATION COMMISSION

Commission Support To Increase the FY 2004-05 Set-Aside
From \$1 Million to \$4.25 Million
For the California Public Utilities Commission's
Railroad Grade Crossing Protection Maintenance Program

Resolution #G-03-__

- 1.1 WHEREAS, the Automatic Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 (PUC Section 1231.1) to pay the cities' and counties' share of the cost of maintaining automatic grade crossing protection devices installed by railroad corporations after October 1, 1965; and
 - 1.2 WHEREAS, since 1967 a minimum of \$1 million per year has been appropriated by the State Legislature and allocated by the California Transportation Commission to the Public Utilities Commission (PUC) for its Railroad Grade Crossing Protection Maintenance Program; and
 - 1.3 WHEREAS, in 1973 the federal law changed which resulted in the increased installation and upgrading of automatic grade crossing protection devices; and
 - 1.4 WHEREAS, the total claims submitted by the railroad corporations have substantially exceeded the \$1 million cap since 1977; and
 - 1.5 WHEREAS, the anticipated claims to be submitted to the PUC for FY 2004-05 are estimated to be about \$4.25 million, which exceeds the annual \$1 million cap by \$3.25 million; and
 - 1.6 WHEREAS, the Commission recognizes the importance of maintaining the grade crossing protection devices for increased safety on the transportation system.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the California Transportation Commission supports an additional \$3.25 million set-aside for use in the PUC grade crossing protection maintenance program which would increase the total allocation set-aside to \$4.25 million, providing revenues are available in FY 2004 – 05 from the State Highway Account.